



ARKANSAS JUDICIARY

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Rule 18. Joinder Of Claims And Remedies.

(a) Joinder of Claims. A party asserting a claim for relief as an original claim, counterclaim, cross-claim, or third-party claim may join, either as independent or alternate claims, as many claims, legal or equitable, as the party may have against an opposing party, provided that nothing herein shall affect the obligation of a party under Rule 13(a).

(b) Severance and Transfer.

(1) Any claim against a party may be severed and proceeded with separately.

(2) If the court determines that the action, or a particular claim, should in the interest of justice or judicial economy be heard in another division, the court may transfer it to that division.

(c) Joinder of Remedies; Fraudulent Conveyances. Whenever a claim is one heretofore cognizable only after another claim has been prosecuted to a conclusion, the two claims may be joined in a single action; but the court shall grant relief in that action only in accordance with the relative substantive rights of the parties. In particular, a plaintiff may state a claim for money and a claim to have set aside a conveyance fraudulent as to him, without first having obtained judgment establishing the claim for money.

Reporter's Notes to Rule 18: - 1. Rule 18 is a modified version of FRCP 18. Its effect is to substantially change Arkansas procedural rules. Under superseded Ark. Stat. Ann. 27-1301 (Repl. 1962), joinder of claims was limited to those classes of actions specifically enumerated; however, under Rule 18, joinder of all claims is permitted, regardless of whether they are equitable or legal in nature.

2. Section (b) permits the trial court to grant a severance of joined claims or to order a transfer of a particular claim between law and chancery courts so as to do justice and facilitate the disposition of an action. This provision confers broad discretion upon the trial court in granting or denying a severance or transfer.

3. As under the Federal Rule, the joinder of claims under this rule is permissive and not mandatory. *Fowler Mfg. Co. v. Gorlick*, 415 F.2d 1248 (C.C.A. 9th, 1969); *McConnell v. Travelers Indem. Co.*, 346 F. 219 (C.C.A. 5th, 1965). Also, where the joinder of claims will result in prejudice or inconvenience to the court or the parties, the court may order separate trials under Rule 42(b).

4. Section 18(c) is identical to FRCP 18(b). The specific remedy mentioned in FRCP 18(b) is illustrative only and does not limit the application of the rule to that particular remedy. *Wright & Miller, Federal Practice And Procedure*, Section 1591.

Addition to Reporter's Notes, 2001 Amendment: - Subdivisions (a) and (b) have been amended in light of Constitutional Amendment 80, which established the circuit courts as the "trial courts of original jurisdiction" in the state and abolished the separate chancery and

probate courts.

New language in subdivision (a) authorizes joinder of claims whether "legal or equitable," as does the corresponding federal rule. Amendment 80's merger of law and equity removed any barriers to the joinder of legal and equitable claims in a single action. See *Beacon Theatres, Inc. v. Westover*, 359 U.S. 500, 510 (1959) ("the liberal joinder provisions of the Federal Rules ... allow legal and equitable causes to be brought and resolved in one civil action").

Previously, subdivision (b) stated that a trial court could "make appropriate orders affecting severance of claims and may transfer claims between courts of law and equity on appropriate jurisdictional grounds." This provision has been deleted because of Amendment 80 and replaced with two paragraphs.

Under new paragraph (1), which tracks the language of Rule 21, any claim "may be severed and proceeded with separately." New paragraph (2) permits the transfer of a particular claim, or the entire action, from one division of the circuit court to another "in the interest of justice or judicial economy." Administrative Order No. 14, adopted by the Supreme Court pursuant to Amendment 80, requires that the circuit judges of each judicial circuit establish five divisions in each county of the circuit: criminal, civil, juvenile, probate, and domestic relations. Creation of these divisions has no jurisdictional significance. See 2001 Reporter's Note accompanying Rule 2.

In the system contemplated by Amendment 80 and Administrative Order No. 14, severance should be employed sparingly and only when multiple claims in a single action are wholly unrelated. If the claims arise from the same transaction or occurrence, a series of transactions or occurrences, or a common nucleus of operative fact, they should not be severed and then transferred to another division of the circuit court for disposition. Severance and transfer in this situation would be at odds with the purpose of Amendment 80, which was designed to eliminate the jurisdictional lines that had forced cases to be divided artificially and litigated separately in different courts. See, e.g., *Hilburn v. First State Bank*, 259 Ark. 569, 535 S.W.2d 810 (1976).

History Text:

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Associated Court Rules:

Rules of Civil Procedure

Group Title:

IV. Parties

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